

# DOCKET SECTION

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE AND FEE CHANGES, 1997

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DOCKET NO. R97-1

OPPOSITION OF PERIODICALS INTERVENORS TO MOTION OF THE  
UNITED STATES POSTAL SERVICE TO STRIKE PORTIONS OF THE  
REBUTTAL TESTIMONY OF MAGAZINE PUBLISHERS OF AMERICA  
WITNESS COHEN (MPA-RT-1)

(March 18, 1998)

The undersigned parties hereby oppose the United States Postal Service Motion To Strike Portions of the Rebuttal Testimony of Magazine Publishers of America Witness Cohen (MPA-RT-1).

Apparently stung by criticisms leveled by leaders of the Periodicals industry concerning its decade-long failure to adequately address problems pointed out by mailers and the Postal Rate Commission, the Postal Service yesterday filed a document entitled "Opposition of the United States Postal Service to Motion of the Periodicals Intervenor to Strike Portions of the Rebuttal Testimony of Postal Service Witness Degen (USPS-RT-6) and Motion to Strike Portions of the Rebuttal Testimony of Magazine Publishers of America Witness Cohen (MPA-RT-2) (sic) and Request for Waiver of Special Rule of Practice 1C" (USPS Response).

On March 13, 1998, Periodicals mailers moved to strike testimony presenting two entirely new studies, USPS-RT- 6, on the grounds that the testimony "present[s] wholly new analyses, based on the creation of new data bases and the application of new methodologies." Motion of Periodicals Intervenor to Strike Portions of the Rebuttal Testimony of Postal Service Witness Degen (USPS-RT-6) and Request for Waiver of Special Rule of Practice 1C, at 1 (Periodicals Motion)(emphasis added). In its response, the Postal Service moves to strike 21 lines of MPA witness Cohen's rebuttal testimony on the grounds that: (1) it is not proper rebuttal (the Cohen testimony addresses

issues raised by witness Degen [not witness UPS Sellick]), USPS Response at 13-14; and (2) it has not been documented. USPS Response at 15.

Today the Presiding Officer granted the motion of the Periodicals Intervenor.

#### The Cohen Testimony is Proper Rebuttal

The Postal Service argues that an issue addressed by witness Cohen, “[t]he alleged ‘cost pool interrelationships’ or ‘cross pool relationships’”, was an “issue raised by witness Cohen and also Time Warner witness Stralberg in their initial testimonies where they had alleged that witness Degen had ignored these effects.” USPS Response at 13-14. “It is thus clear that witness Cohen’s analysis could have and should have been presented in her initial testimony.” USPS Response at 14.

The Postal Service seems to believe that witness Cohen is taking two bites at the same apple – witness Degen’s methodology. This is not the case. Witness Cohen takes bites at two different apples – witness Degen’s methodology in her direct testimony, and witness Sellick’s in her rebuttal. These different apples suffer from similar imperfections. Witness Sellick embraces many aspects of witness Degen’s methodology, including ignoring “cost pool interrelationships” and “cross pool relationships.” Witness Cohen’s criticisms of Sellick, thus, also apply to Degen. This should not, however, preclude her from taking a bite at the Sellick apple. The fact that witness Cohen’s criticisms of Sellick’s methodology apply with equal force to witness Degen’s (and that she points this out) is unfortunate for the Postal Service, but it does not render her testimony improper rebuttal.

If the Postal Service believes that witness Sellick’s testimony should be immune from criticism to the extent it builds on the Postal Service’s direct case, it is suggesting a standard that would be difficult if not impossible to apply. Should intervenors (and the Commission) be required to determine which portions of his testimony are fair game for rebuttal, and which must be avoided because they are poisoned by being similar to that of witness Degen? We think not. All of witness Sellick’s testimony should be subject to rebuttal.

#### The Cohen Testimony Has Been Adequately Documented

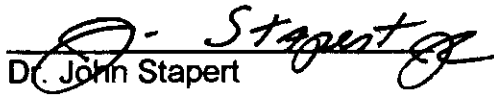
The Postal Service complains that Table 1 on page 13 of witness Cohen’s testimony is footnoted with a “cryptic reference.” Witness Cohen indicates the

calculations required to produce Table 1 are “rudimentary.” MPA-RT-1 at 12. Her footnote clearly identifies the data available in this proceeding upon which she performed these calculations – data from library references supplied by the Postal Service. See MPA-RT-1 at 13 (footnote 25). We are filing today a one page work paper presenting witness Cohen’s calculations. Ms. Cohen did no more with existing data than counsel would be permitted to do on brief. She simply added the direct tallies in the allied operations and aggregated over all operations. Then she used the sums to distribute allied operations mixed and not-handling costs. A copy of that work paper is attached to this pleading. Copies are being transmitted via facsimile today to counsel for the Postal Service and for witness Sellick.

Compare witness Cohen’s calculations with the material in witness Degen’s rebuttal testimony that was stricken. That testimony “present[s] wholly new analyses, based on the creation of new data bases and the application of new methodologies.” Periodicals Motion at 1 (emphasis added). The Postal Service pointed to bits and pieces of information scattered over the records of this and other proceedings in an attempt to establish that the necessary data are available to the parties. USPS Response at 9-10. However, it still admitted, as it must, that necessary input data “cannot be provided.” USPS Response at 10. The fact is, even if there were sufficient time (which there is not), parties could not have tested the Postal Service studies because the underlying data are not available.

The Postal Service argues “that the same standards should apply to all rebuttal testimony.” USPS Response at 1. We agree. We submit it would have been inappropriate for witness Cohen to introduce entirely new studies based on data not in the record, as Postal Service witness Degen did. Witness Cohen did not. Witness Degen’s testimony should have been stricken. Witness Cohen’s should not be stricken.

Respectfully submitted,

  
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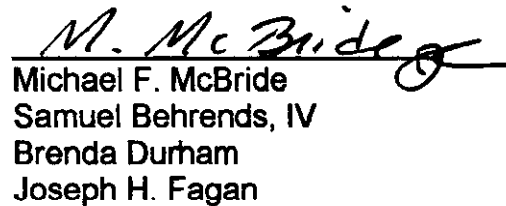
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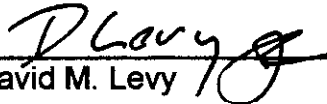
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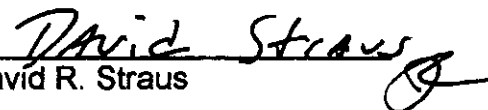
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## MPA-RT-1 Workpaper 1

**Table 1. Distribution of MODS Allied Mixed-Mail and Not-Handling Accrued Costs to Major Class (\$000s)**

CLASS	Direct Tally Cost		Percent Distribution		Allied Mixed/Not-Handling Cost Distribution		Difference	
	Allied	All Pools	Allied	All Pools	On Allied Costs Only	Across All Cost Pools	Absolute	Percentage
	[1]	[2]	[3]	[4]	[5]	[6]	[7]	[8]
First-Class	\$399,302	\$2,650,907	56.6%	62.5%	\$1,242,176	\$1,370,962	\$128,786	10.4%
Priority	\$52,335	\$183,967	7.4%	4.3%	\$162,808	\$95,142	-\$67,666	-41.6%
Express	\$4,967	\$36,852	0.7%	0.9%	\$15,452	\$19,059	\$3,607	23.3%
Periodicals	\$57,205	\$208,516	8.1%	4.9%	\$177,956	\$107,838	-\$70,119	-39.4%
Standard A	\$151,294	\$856,496	21.4%	20.2%	\$470,655	\$442,952	-\$27,703	-5.9%
Standard B	\$17,035	\$52,865	2.4%	1.2%	\$52,994	\$27,340	-\$25,654	-48.4%
Total	\$705,474	\$4,243,573	100.0%	100.0%	\$2,194,637	\$2,194,637	\$0	0.0%

[1] Direct tally cost for the MODS cost pools that were categorized as Allied in USPS-T-12 at 15, Table 4. (Data: LR-H-23; Program: LR-H-218 as described in LR-H-146)

Figures in column [1] can also be calculated by summing Allied costs from MPA-LR-1, mcagbfd.txt by class and adding activity code 5461 costs from mcagbfe.txt to column total.

[2] Direct tally cost for all MODS cost pools. (Data: LR-H-23; Program: LR-H-218)

Figures in column [2] can also be calculated by summing all costs from MPA-LR-1, mcagbfd.txt by class and adding activity code 5461 costs from MPA-LR-1, mcagbfe.txt to column total.

[3] Percent distribution of cost in column [1].

[4] Percent distribution of cost in column [2].

[5] Totals are Table 2, column [3], row "Total." Tally costs adjusted to accrued cost by applying USPS reweighting factors. Cost by class applies proportions from column [3] to column total.

[6] Totals are Table 2, column [3], row "Total." Tally costs adjusted to accrued cost by applying USPS reweighting factors. Cost by class applies proportions from column [4] to column total.

[7]=[6]-[5]

[8]=[7]/[5]-1

**Table 2. MODS Allied Mixed-Mail and Not-Handling Costs**

Pool	IOCS Cost	Reweighting Factor	Accrued Cost
	[1]	[2]	[3]
1BULK PR	\$11,776	0.714	\$8,405
1CANCMP	\$166,666	0.910	\$151,629
1OPBULK	\$185,377	1.154	\$214,007
1OPREF	\$485,118	1.055	\$512,031
1PLATFRM	\$806,036	1.002	\$807,657
1POUCHNG	\$308,115	1.025	\$315,691
1SACKS_H	\$124,413	1.110	\$138,109
1SCAN	\$50,200	0.938	\$47,108
Total	\$2,137,701	n.a	\$2,194,637

[1] Mixed-mail and not-handling tally cost for the MODS cost pools that were categorized as Allied in USPS-T-12 at 15, Table 4. (Data: LR-H-23; Program: LR-H-218)

Figures in column [1] can also be calculated by summing Allied costs (where activity code does not equal 6521) from MPA-LR-1, mcagbfe.txt, mcagbfp.txt, and mcagbfn.txt by cost pool.

[2] [Cost Pool Cost]/[IOCS Cost]. (Data: LR-H-23; Program: LR-H-218)

Witness Degen also provided Cost Pool Cost and IOCS Cost by cost pool in LR-H-304, dma-13b.xls.

[3]=[2]x[1]

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document on all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

  
James R. Cregan

March 18, 1998